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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BD03

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 102

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the North Pacific Fishery Management Council (Council) has submitted Amendment 102 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) for review by the Secretary of Commerce. Amendment 102 would implement a Community Quota Entity (CQE) Program for sablefish in the Aleutian Islands regulatory area. The proposed CQE Program would be similar to the existing CQE Program in the Gulf of Alaska (GOA). Amendment 102 is necessary to provide additional fishing opportunities in fishery dependent communities of the Aleutian Islands and sustain participation in the sablefish IFQ fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, and other applicable laws.

DATES: Comments on Amendment 102 must be received no later than 5 p.m., Alaska local time (A.l.t.), on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2013-0048, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0048, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on

www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Regulatory Impact Review (RIR) and proposed rule for Amendment 102 and the RIR/Initial Regulatory Flexibility Analysis (IRFA) for the regulatory amendment to allow IFQ derived from D share halibut quota share to be fished on category C vessels in Area 4B are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Peggy Murphy, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan (FMP) or FMP amendment it prepares to the Secretary for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires the Secretary, upon receiving an FMP, to immediately publish a notice in the Federal Register that the FMP or amendment is available for public review and comment.

Amendment 102 to the BSAI FMP would revise the individual fishing quota program (IFQ Program) for the sablefish fisheries in the Aleutian Islands. The IFQ Program for the fixed-gear commercial fisheries for halibut and sablefish in waters in and off Alaska is a limited access privilege program implemented in 1995 (58 FR 59375, November 9, 1993). The IFQ Program limits access to the BSAI halibut and sablefish fisheries to those persons holding quota share

(QS) in specific management areas. The amount of halibut and sablefish that each QS holder may harvest is calculated annually and issued as IFQ in pounds.

In 2002, the Council recommended revisions to IFQ Program regulations and policy to allow a non-profit entity to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. NMFS implemented the Council's recommendations as Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) in 2004 (69 FR 23681, April 30, 2004). Amendment 66 implemented the community quota entity program (CQE Program) to allow these communities to form new non-profit organizations called CQEs to purchase catcher vessel QS under the IFQ Program. GOA CQEs that purchase QS on behalf of an eligible community may lease the resulting annual IFQ to fishermen who are residents of the community. The GOA CQE Program was developed to allow a distinct set of small, remote, coastal communities in Southeast and Southcentral Alaska to purchase halibut and sablefish QS for use by community residents in order to help minimize adverse economic impacts of the IFQ Program on such communities and provide for the sustained participation of the communities in the IFQ fisheries.

The Council recommended the CQE Program for the GOA, but not for communities located adjacent to the coast of the BSAI. The CQE Program adopted by the Council, and implemented by NMFS, was specifically intended to provide opportunities to remote coastal communities in the GOA that met specific criteria that included historic participation in the GOA halibut and sablefish fisheries. The Council did not apply the CQE Program to the BSAI because nearly all small, remote, coastal communities in the BSAI also participate in the Western Alaska Community Development Quota Program (CDQ Program) that is authorized under

section 305(i) of the Magnuson-Stevens Act. NMFS annually withholds a proportion of the IFQ allocation of halibut and sablefish for use as a CDQ reserve. The CDQ reserve of halibut and sablefish is allocated to CDQ groups that represent 65 coastal communities throughout the BSAI. This allocation to the CDQ Program allows the distribution of benefits from that allocation to be shared among the residents of the CDQ Program communities. In contrast, the CQE Program authorizes communities to purchase halibut and sablefish QS for use by community residents. At the time the Council recommended, and NMFS implemented, the CQE Program for the GOA, communities located in the BSAI did not meet the geographic scope, or intent, of the CQE Program.

In February 2010, the Council received a proposed amendment to the BSAI FMP from the Adak Community Development Corporation, on behalf of the community of Adak. The proposal recognized that there may be opportunity for Adak and other similarly situated communities in the Aleutian Islands to maintain and improve access to commercial halibut and sablefish fisheries through a community QS holding program similar to the GOA CQE Program. The Council initiated a formal discussion paper for review in December 2010. During its review, the Council considered the discussion paper and comments from the public, NMFS, and the State of Alaska. The Council initiated a formal analysis of the alternatives to develop an Aleutian Islands CQE program. Formal analysis was completed for initial review in October 2011 and a preferred alternative was selected. The Council's preferred alternative had several associated components and options that comprised the structure and provisions of the program which were based on those of the CQE Program in the GOA. The Council took final action in

February 2012 and recommended Amendment 102 to the BSAI FMP to establish a CQE Program in the Aleutian Islands.

The basic provisions of proposed Amendment 102 are similar to those in the GOA FMP as described in the CQE Program for GOA communities (April 30, 2004, 69 FR 23681), and as amended by Amendment 94 to the GOA FMP (Feb. 22, 2013, 78 FR 12287) because the goals of the GOA CQE Program and the proposed Aleutian Islands CQE Program are similar. The Council, however, determined that the Aleutian Islands Program would differ in certain ways in order to address the Council's requirements for the proposed Aleutian Islands CQE Program. The provisions of Amendment 102 to the BSAI FMP are summarized here.

Community Quota Share Purchases

Amendment 102 would revise the BSAI FMP to allow a CQE representing an eligible Aleutian Islands coastal community to be eligible to purchase and hold commercial catcher vessel sablefish QS under the IFQ Program as defined and described in the BSAI FMP.

1. Eligible Community

A potentially eligible community would need to meet all the following criteria to participate in the proposed Aleutian Islands CQE Program: (a) be located within the Aleutian Islands; (b) not be eligible for the CDQ Program; (c) have a population of more than 20 and less than 1,500 persons based on the 2000 U.S. Census; (d) have direct access to saltwater; (e) lack direct road access to communities with a population greater than 1,500 persons; (f) have historic participation in the halibut and sablefish fisheries; and (g) be specifically designated on a list adopted by the Council and included in regulation. These specific criteria for community eligibility, with the exception of criteria (a) and (b), would be identical to those implemented for

the GOA CQE Program. Under these criteria, only one community, Adak, AK, would be eligible.

Amendment 102 would revise the BSAI FMP to establish that the administrative entity (i.e., the CQE) eligible to hold sablefish QS on behalf of the eligible community of Adak must also be the entity approved by NMFS under Amendment 18 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs to hold the Western Aleutian Islands golden king crab allocation on behalf of Adak. This provision differs from the GOA CQE Program in that the Council specifically designated the entity that holds the Western Aleutian Islands golden king crab allocation on behalf of Adak to be a non-profit CQE representing Adak. However, the governing body of Adak must approve the CQE to operate on behalf of the community. The CQE approval by a community governing body is required under the GOA CQE Program.

2. Management Areas

Amendment 102 would revise the BSAI FMP to allow a qualified non-profit organization to purchase and hold sablefish QS and associated IFQ designated for the Aleutian Islands subarea on behalf of any community meeting the qualifying criteria described above. NMFS believes that at this time, Adak is the only Aleutian Islands community that would meet the qualifying criteria. The CQE could assign the resulting annual sablefish IFQ to fixed gear sablefish fishery participants according to defined CQE Program provisions.

3. Use and Ownership Provisions

a. Individual community use cap. Amendment 102 would revise the BSAI FMP to establish a community use cap that would limit the amount of sablefish QS that each eligible community, as represented by a CQE, could purchase and hold. Amendment 102 would

establish the CQE use cap for sablefish equal to 15 percent of the Aleutian Islands sablefish QS pool (4,789,874 QS units).

b. Cumulative community use cap. A cumulative community use cap would limit the amount of sablefish QS that all Aleutian Islands CQEs could purchase and hold collectively. Under the proposed action, Adak would be the only eligible community; therefore, the community use cap of 15 percent of the Aleutian Islands sablefish QS pool (4,789,874 QS units) also would serve as the cumulative community use cap.

c. Quota share blocks. Two block provisions would be applicable to an Aleutian Islands CQE under this FMP amendment. The first block provision would allow an Aleutian Islands CQE to purchase both blocked and unblocked Aleutian Islands sablefish QS, without restrictions on the size of blocked QS that may be held.

The second block provision would limit the number of QS blocks an Aleutian Islands CQE could hold. This limit would be the same as the limit currently applied to a GOA CQE. Under the current GOA CQE Program, each community represented by a CQE is limited to holding, at any point in time, a maximum of 5 blocks of sablefish QS in the Aleutian Islands subarea.

d. Vessel size. An Aleutian Islands CQE could purchase and hold all categories of Aleutian Islands sablefish catcher vessel QS (B share and C share QS). The IFQ derived from sablefish B share and C share QS could be used on any size vessel regardless of the QS vessel category from which the IFQ was derived as long as the QS is held by a CQE.

4. Transfer Provisions

a. CQE transfer of QS. On an annual basis, an Aleutian Islands CQE could transfer sablefish IFQ derived from QS held by the CQE. CQEs holding QS may lease the IFQ derived from those QS only to residents of the eligible community with the exception that on an annual basis for a period of 5 years after the effective date of implementation of the program, a CQE may lease annual IFQ derived from CQE held QS to non-residents of the eligible community. After the 5-year period, the CQE must lease annual IFQ derived from CQE held QS to residents of the eligible community.

b. Limit on IFQ per lessee. Any CQE owning catcher vessel QS could lease, but could not exceed, 50,000 pounds of sablefish IFQ per lessee annually. The 50,000-pound (22.7-mt) limit would include any quota owned by the individual (lessee).

c. Limit on IFQ per vessel. No vessel could be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ sablefish derived from QS held by a CQE, and no vessel used to harvest IFQ sablefish derived from CQE held QS could be used to harvest more IFQ sablefish than the vessel use caps specified in § 679.42(h). A vessel could be used to harvest additional IFQ from non-CQE-held QS up to the overall vessel use cap applicable in the IFQ Program, if the overall vessel use cap were greater than 50,000 pounds (22.7 mt). If the vessel use cap in the IFQ Program were lower than 50,000 pounds (22.7 mt) in a given year, then the lowest vessel use cap would apply.

d. Sale of QS. An Aleutian Islands CQE holding sablefish catcher vessel QS could only transfer the QS to another CQE eligible community or any person meeting the provisions outlined in Section 3.7.1.4 of the BSAI FMP. At this time, Adak would be the only community eligible to be represented by a CQE in the Aleutian Islands; therefore, a CQE representing Adak

could only transfer its catcher vessel QS to an individual or initial recipient eligible under the IFQ Program rules. An Aleutian Islands CQE could not transfer Aleutian Islands sablefish QS to any of the GOA CQEs eligible to hold QS under the GOA CQE Program because those CQEs are prohibited under existing regulations from purchasing QS outside the GOA.

e. Purposes of sale. An Aleutian Islands CQE may only transfer QS for one of the following purposes: to generate revenues to sustain, improve, or expand the program; or to liquidate the CQE's QS assets for reasons outside the program. Should an eligible community transfer their QS for reasons not consistent with these purposes, the CQE administrative entity would not be qualified to purchase and hold QS on behalf of that community for a period of 3 years.

A RIR was prepared for Amendment 102 that describes the CQE Program, the purpose and need for this action, the management alternatives evaluated to address this action, and the economic and socioeconomic effects of the alternatives (see ADDRESSES). An IRFA is also included in the proposed rule for Amendment 102 that describes the impact of the proposed rule on small entities (see ADDRESSES).

Amendment 102 and its proposed implementing regulations are designed to comply with the Magnuson-Stevens Act, the national standards, and other applicable law. The proposed amendment and implementing regulations particularly address national standard 8, which provides that conservation and management programs shall, consistent with the conservation requirements of the Act, take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities. The IFQ Program

for Pacific halibut is implemented under the authority of the Northern Pacific Halibut Act of 1982. The Council does not have a halibut fishery management plan. The Council and Secretary of Commerce, however, consider the impacts of all the IFQ management measures on fishery-dependent communities. If Amendment 102 is approved, then sablefish and halibut components would be implemented in one rule. Amendment 102 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the BSAI FMP, and other applicable laws.

Public comments are being solicited on Amendment 102 and associated documents through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 102 will be published in the Federal Register for public comment following NMFS evaluation under Magnuson-Stevens Act procedures. Public comments, whether specifically directed to the amendment or the proposed rule, must be received, not just postmarked or otherwise transmitted, by 5 p.m., A.l.t., on the last day of the comment period (see DATES). Comments received by the end of the comment period will be considered in the approval/disapproval decision on Amendment 102. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 102.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 29, 2013

James P. Burgess,

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National Marine Fisheries Service.

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